
Dissenting Views to Committee's Adverse Reporting of H. Res. 136

We vigorously dissent from the Majority's decision to report adversely H. Res. 136, which would have requested the Justice Department and Department of Homeland Security disclose information concerning the manner in which Jeffrey Gannon (aka James A. Guckert) received White House press privileges.

We dissent because we believe 1) Mr. Gannon was granted preferential access by the White House; 2) the granting of such access via temporary passes raises serious security issues; 3) the Administration's course of dealings with Mr. Gannon may also have violated various legal requirements; and 4) there are no other means available to pursue these lines of inquiry.

By defeating this Resolution, all of the above questions will remain unanswered, and the Majority continues a long line of inaction on their part which runs totally counter to the principles of accountability and checks and balances that our nation was founded upon. The Majority's perfunctory rejection of this important Resolution, on a party line vote of 21-10, at the end of a long day of markup of other business, does a disservice to the 33 Members, including 14 members of this Committee, who submitted this Resolution of Inquiry to the House.

It is an unfortunate fact of life that we have an Administration that is all too willing to flaunt the law, and a Republican-controlled Congress that refuses to investigate even the most serious ethical transgressions. Whether it is torture at Abu Ghraib, sole source contracts with Haliburton, or the outing of a CIA operative, this Congress has been unwilling and unable to ask the hard questions or issue the difficult subpoenas. The Committee's failure to request even the most cursory of information regarding Mr. Gannon from the Administration represents a disturbing continuation of this trend, and illustrates the ongoing problem of one-party rule in Washington.

When our Committee enacted its rules on January 26, 2005, Rep. Conyers offered an amendment to insure that the Minority could request oversight hearings into ethical abuses by the Administration. The Chairman rejected the proposal stating, among other things, that the resolution of inquiry was the Minority's vehicle for investigation. Yet, now that we have proposed such a Resolution, the Majority has rejected it based on the specious contentions that our requests for information have been complied with, and that other investigations are ongoing. These assertions are neither accurate or relevant.

In the following several pages, we set forth relevant background on this matter, and detail the reasons for our dissent in greater detail.

Background

It is now widely known that James D. Guckert, a Republican activist, gained repeated access to the White House press briefing room and presidential press conferences from January of 2003 to January of 2005. He was allowed to work under the assumed name of "Jeff Gannon."

Almost immediately after President Bush called on Mr. Gannon by name during a January 26, 2005 press conference (to ask a controversial question deriding the Senate Democratic Leadership),¹ the blogosphere began investigating Mr. Gannon's real identity, his journalistic ties, and his relationships within the Republican party. It is now clear that Talon News, for which Mr. Gannon served as the White House correspondent, has close working ties with Republican operatives, as well as a GOPUSA.com website. In fact, the same individual, Bobby Eberle, a Texas Republican activist and previous GOP delegate, owns both of these organizations. While Mr. Eberle's Talon website claims to be "committed to delivering accurate, unbiased news coverage to [its] readers," his GOPUSA.com site asserts itself as "bringing the conservative message to America."²

Further evidencing the tie between this alleged nonpartisan organization and its partisan counterpart is the fact that both organizations' websites are registered to what appears to be Mr. Eberle's Pearland, Texas personal residence address, and even TalonNews.com's domain name registration contains Mr. Eberle's GOPUSA email address. After learning of this, online advocacy group Media Matters for America concluded, "Talon News apparently consists of little more than Eberle, Gannon, and a few volunteers, and is virtually indistinguishable from GOPUSA.com . . . GOPUSA's officers and directors show a similar lack of journalism experience, but plenty of experience working for Republican causes."³

It became readily apparent that Mr. Eberle and Mr. Gannon did not want the public to know of this connection. Shortly after Media Matters publicized this relationship to the American people, Talon quickly pulled its staff and reporter biographies from its website. It is, however, worth noting though that these biographies were still likely available at the time that Mr. Gannon and Talon requested access to the White House.

The Standing Committee of Correspondents, a group of congressional reporters charged with overseeing the credentialing of press on Capitol Hill, quickly uncovered this relationship. On April 7, 2004, the Standing Committee denied Mr. Gannon's application for a press pass based on its inability to conclude that Talon was a *legitimate, independent* news organization.⁴

¹Presidential Press Conference, Jan. 26, 2005.

²See Eric Boehlert, *Fake News, Fake Reporter*, **Salon.com**, Feb. 10, 2005, at http://www.salon.com/news/feature/2005/02/10/gannon_affair.

³See *id.*

⁴According to online magazine Salon.com's interview of a *Baltimore Sun* reporter seated on the Standing Committee of Correspondents, the Standing Committee's non-recognition of the publication led it to inquire as to what Talon was. After further independent investigation revealed that Talon was owned by the GOPUSA's owner, *Baltimore Sun* reporter Julie Davis recounts what transpired as follows: "We had asked for some proof of Talon's independence

Further investigation of Talon News revealed that its staff consisted of largely volunteer Republican activists having no journalism experience. Online advocacy group Media Matters for America analyzed several of Mr. Gannon's posted articles and found on multiple occasions that Mr. Gannon had copied entire sections straight from White House press releases and pasted them into his filed dispatches as if it was his own writing.

Standard operating procedure requires that anyone who has regular access to the White House receive a permanent or "hard pass." Hard pass recipients must meet the following five criteria: 1) they must work for a news organization that is either based in Washington, or which has a Washington Bureau; 2) they must live in the Washington area; 3) they must demonstrate a need to be at the White House on a regular basis (this is usually done in a letter from a bureau chief to the Secret Service); 4) they must have a pass authorizing them to cover the U.S. Senate or House congressional galleries; and 5) they must undergo a Secret Service background check.⁵

As noted above, Mr. Gannon was refused a congressional pass after the House and the Senate learned that he worked for GOPUSA. This prevented Mr. Gannon from receiving a hard pass. With White House approval, however, he was able to circumvent this requirement and obtained almost daily access to the White House, by virtue of receiving a series of "day passes" over an approximately two-year period.

According to White House Press Secretary Scott McClellan, only 20 to 25 day passes are handed out each day.⁶ Those passes are handled by the same staff assistant every day, and are given to members of the press who are not part of the Washington news corps generally, but are covering a very specific issue or event that the White House is addressing on that day.⁷

Grounds for Dissent

1. Mr. Gannon Was Granted Preferential Access by the White House

First and foremost, we are concerned that Mr. Gannon was granted preferential access by the White House over an approximately two-year period. This in turn raises questions as to

from [GOPUSA] . . . They didn't provide anything, so we denied their credentials, which is pretty rare." See Eric Boehlert, Giving "Gannon" a Pass, **Salon.com**, Feb. 11, 2005, at <http://www.salon.com/news/feature/2005/02/11/gannon>.

⁵Interview with Carl Cannon, immediate past president of the White House Correspondents' Association, Hotline, Feb. 16, 2004.

⁶Joe Strupp, *Scott McClellan Reveals that Gannon/Guckert Got GOPUSA Press Pass*, EDITOR AND PUBLISHER, Feb. 18, 2005.

⁷*Id.*

whether the ordinary press requirements and safeguards were obviated merely to provide the Administration with a sympathetic questioner at White House briefings.

Mr. Gannon's use of an alias, as well as the circumstances surrounding his access to the White House, contradict the strict standards the Secret Service sets for protecting the President and deviate substantially from standards applied to others seeking access to the White House or the President. To the best of our knowledge, Gannon is the only member of the White House press corps to receive such a privileged standing. In fact, Pulitzer Prize winning journalists have been turned down for press passes.⁸ It therefore appears to be highly unlikely that Mr. Gannon could have been repeatedly allowed into the White House over such a lengthy period without the intervention of someone very high up at the White House.

Unfortunately, this is not an isolated incident. This Administration has come under severe questioning for its involvement in "manufactured" news. Among other things, Armstrong Williams received \$240,000 from the Bush Administration to help promote the President's "No Child Left Behind" program to minority audiences through his nationally-syndicated column. Michael McManus, author of the syndicated column, "Ethics & Religion," which appears in 50 newspapers nationwide, was paid to champion a marriage initiative on the Administration's behalf and also did not disclose to his readers that he was contracted to help make the initiative a success.

These are just two of many contracts doled out by the Bush Administration, which has expended more than \$88 million in taxpayer funds to disseminate manufactured news and propaganda.⁹ In the present case, we have a very real concern that the White House intervened to grant such access with the specific intent of having a Republican partisan conveniently available to pose sympathetic questions at White House press briefings. Adoption of this Resolution of Inquiry would allow us to resolve these concerns.

2. The Granting of Such Access Via Temporary Passes Raises Serious Security Issues

By creating a loophole to the ordinary means of obtaining a White House press pass granting preferential access to Mr. Gannon, the Administration may have unwittingly jeopardized the security of the president.

⁸Maureen Dowd, *Bush's Barberini Faun*, NY TIMES, Feb. 17, 2005.

⁹See generally Jim Drinkard, *Report: PR Spending Doubled Under Bush*, USA Today, Jan. 26, 2005, available at http://www.usatoday.com/news/washington/2005-01-26-williams-usat_x.htm (reporting that the Bush Administration spent at least \$88 million in Fiscal Year 2004 on contracts with major public relations firms, a number that is double what the Administration spent in President Bush's first year in office).

Mr. Gannon received access to the White House through the repeated issuance of day passes. Unlike permanent or “hard passes,” a day pass does not require a full Secret Service background check. In fact, clearance for a hard pass can take two to three months to complete.

According to Carl Cannon, the immediate past President of the White House Correspondents Association, day passes are given to those who need access only for a short time to cover a specific event or immediate story.¹⁰ However, it appears that the Bush Administration may have abused this process to keep Mr. Gannon in what amounts to near-constant access to the President. By repeatedly issuing day passes to Mr. Gannon, the White House was allowed to sidestep the usual clearance process for anyone with such regular access to press events.

The precedent of such a waiver is quite alarming. It allows individuals who are unable to meet the criteria necessary to obtain a hard pass to obviate those requirements by obtaining special recourse to day pass procedures. At a minimum, this is highly dubious and dangerous alternative in the post 9-11 world when security concerns should be among the White House’s highest priorities. This concern alone justifies the adoption by the Committee of H. Res. 136 so that we may explore the issue in greater depth.

3. The Administration’s Course of Dealings with Mr. Gannon May Have Violated Various Legal Requirements

We also believe it is important to obtain information concerning Mr. Gannon’s interactions with the White House in order to resolve concerns the White House may have illegally published propaganda and improperly granted access to classified information.

On numerous occasions Mr. Gannon reprinted White House talking points and press releases word for word as his own work. The non-partisan GAO has determined that it is illegal for the Administration to use appropriated money to broadcast or publish propaganda without taking credit for it.¹¹ Accordingly, the White House may have violated this ban when it gave prepackaged print stories to Mr. Gannon, which he reprinted wholesale without disclosing that they were authored by the Administration.

A separate legal concern relates to the fact that Mr. Guckert may have had access to classified information, in violation of laws that protect the identity of undercover agents. This is

¹⁰The Hotline, Feb. 16, 2005.

¹¹Letter from David M. Walker, Comptroller General to Heads of Departments, Agencies and Others Concerned, Feb. 17, 2005 (B-304272), *available at* <http://www.gao.gov/decisions/appro/302710.pdf>.

because he claimed to have seen a classified CIA document identifying Valerie Plame as an undercover agent.¹²

4. There Are No Other Means Available to Pursue These Lines of Inquiry

_____ It is important that we pursue this information from the Administration through a Resolution of Inquiry since all other potential avenues of obtaining the information have either been ignored or rejected by the Administration.

This resolution comes only after numerous Congressional inquiries that have gone unanswered (all attached herewith):

- Feb. 9, 2005: Representative Slaughter writes to President Bush inquiring how Mr. Gannon repeatedly got access to the White House press corps – *No response received to date.*
- Feb. 10, 2005: Representatives Slaughter and Conyers write special prosecutor Patrick Fitzgerald to inquire whether he was aware that Mr. Gannon claimed he had access to a classified CIA memo outing Valerie Plame as a undercover agent – *Mr. Fitzgerald acknowledged receipt, but would not comment on the status of his investigation.*
- Feb. 10, 2005: Representatives Slaughter and Conyers write to the head of the Secret Service to inquire whether Mr. Gannon went through standard clearance procedures, and who in the White House requested his access -- *The Secret Service responded by confirming that Mr. Gannon was cleared for access under his real name, James Guckert, however, they did not answer any of the other questions such as whether he had a full background check or who requested his access to the White House.*
- Feb. 15, 2005: Representatives Slaughter and Conyers make a Freedom of Information Act (FOIA) request to Homeland Security Department Secretary Tom Ridge, asking for all information the Secret Service has on how one gains access to the White House press corps, and how those policies were applied to Mr. Gannon – *The FOIA office is searching its records.*
- Feb. 23, 2005: Representatives Slaughter and Conyers write to special prosecutor Patrick Fitzgerald to note that Mr. Gannon claimed to have a journal chronicling all 200 days he was given access to the White House – *Mr. Fitzgerald acknowledged receipt, but would not comment on the status of his investigation.*

¹²Joe Strupp, 'Gannon' Interview: No Plame Subpoena, No Tie to White House, He Says, EDITOR AND PUBLISHER, Feb. 11, 2005.

- Feb. 23, 2005: Representatives Slaughter and Conyers write to the GAO to ask that they include an investigation of Mr. Gannon in their review of how the Bush Administration has illegally used funds for propaganda purposes – *No response received to date.*
- Feb. 25, 2005: Senators Durbin, Kerry, Kennedy, Lautenberg and Reid write to the White House, requesting a thorough investigation into Mr. Gannon's White House access and any security breaches that may have resulted – *No response received to date.*

We categorically reject the contention of the Majority, made at the markup that the Administration has already complied with our requests. The fact is that all but one of Mr. Conyers and Ms. Slaughters letters has gone substantively unanswered, and the response they received was grossly incomplete. As a result, nearly two months after a series of inquiries were made to the Administration, we still don't know who in the White House arranged for Mr. Gannon's unfettered access to the president.

We further reject the Majority's contention that a request for information by the Committee would compete with other investigations being conducted. First, we are unaware of any current investigations of this scandal by the Administration, Congress or the GAO. Even if there were such an investigation, we are aware of no rule or principle that impedes the Committee from simultaneously conducting its own investigation. Indeed, one need look no further that the Clinton Administration to find numerous instances of Congress investigating allegations of misconduct that were being separately investigated – from travelgate, to allegations of improper campaign contributions, to the impeachment of the president. Had such a limitation on congressional prerogatives been obeyed by Congress during the Watergate era, it is doubtful the Nixon Administration's full array of misconduct would have been unearthed.

It is also important to note, that by its terms, H. Res. 136 is not binding on the Administration, it is merely a request. If the Administration was aware of some legal or other impediment to supplying the information, they would be free to state as such. However, at least we would have a higher level of public accountability. By adversely reporting this Resolution, the Majority simply makes it easier for the Administration to avoid embarrassing questions.

Conclusion

We dissent from the Majority's decision to adversely report this Resolution of Inquiry because we believe the time is long past due for the Congress to demand accountability from the Administration for its ethical transgressions.

In our judgment it simply defies credibility that a phony reporter, operating under an alias, who couldn't get privileges in the House or Senate press gallery, could receive hundreds of White House "day passes" without the intervention of someone very high up at the White House. We are also unable to believe that while Pulitzer Prize winning journalists have been turned down for White House press passes, a neophyte, pseudo-journalist working for a

Republican-controlled media front operation could receive virtually open-ended access to the White House press room in the absence of preferential treatment. In this context, we believe the full House is entitled to vote on H. Res. 136 to present these questions directly to the Administration.

John Conyers, Jr.
Rick Boucher
Jerrold Nadler
Robert C. Scott
Zoe Lofgren
Sheila Jackson Lee
Maxine Waters
Martin T. Meehan
Robert Wexler
Anthony D. Weiner
Linda T. Sánchez
Adam Smith
Chris Van Hollen